IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6833 of 2007()

CRIME NO. 181/07 OF AMBALAVAYAL POLICE STATION

PETITIONER

K.PRIYANAND, S/O. M.KESAVAN,
THOMATTUCHAL TEA PRODUCERS PVT. LTD.,
THOMATTUCHAL, VADUVANCHAL P.O., WAYANAD.

BY ADV. SRI.T.C.MOHANDAS
SRI.T.M.SUNIL
SMT.S.CHITHRA
SRI.A.S.BRIJESH

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, AMBALAVAYAL,
SULTAN BATHERY, WAYANAD.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6833 of 2007

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Dated this the 14th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused in a crime registered, inter alia, under Sections 406 and 420 I.P.C. The crux of the allegations against the petitioner is that machineries, which were entrusted to the petitioner as the Managing Director of a company, were misappropriated and taken away from the premises with a fraudulent intention by him to defeat the interests of the Kerala Financial Corporation, which had entrusted the machineries to the petitioner. There was an attachment in respect of the properties. The allegation is that the machineries were illegally and clandestinely removed from the premises of the establishment by the petitioner, who happens to be the Managing Director of the establishment.

2. The learned counsel for the petitioner submits that the petitioner is innocent The petitioner has a case that some others had committed theft of valuables from the premises and the

petitioner's action was calculated only to secure the property belonging to the company. Investigation is in progress. The petitioner apprehends imminent arrest. The learned counsel submits that the petitioner does not deserve to suffer the trauma of arrest and detention. Anticipatory bail may, in these circumstances, be granted to the petitioner.

3. The learned Prosecutor opposes the application. In the nature of the contentions raised, the petitioner has to be interrogated. The correctness of the version of the petitioner that some one else had committed theft had also to be subjected to close scrutiny. It will not be proper at this stage to permit the petitioner to arm himself with an order of anticipatory bail. He may be directed to appear before the Investigator and co-operate with the Investigator for a proper resolution of the crime, submits the learned Prosecutor.

4. I have considered all the relevant inputs. I find merit in the opposition by the learned Prosecutor. There are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This

I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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